

Illinois Commerce Commission On its Own Motion)	
Investigation Concerning Illinois Bell Telephone)	Docket No. 01-0662
Company's compliance with Section 271 of the)	
Telecommunications Act of 1996)	

AFFIDAVIT OF JEFFREY H. HOAGG
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Dated: February 21, 2003

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I. INTRODUCTION

I, Jeffrey H. Hoagg , being of lawful age and duly sworn upon my oath, do hereby depose and state as follows:

1. My name is Jeffrey H. Hoagg. I am employed by the Illinois Commerce Commission as Principal Policy Advisor, Office of the Director, Telecommunications Division. My business address is 527 East Capitol Avenue, Springfield, Illinois 62701.

II. EDUCATION AND BACKGROUND

2. I graduated from Cornell University with a Master of Arts in Economics in 1986. I was admitted to doctoral candidacy at Cornell University and completed all requirements for the Ph.D. in Economics other than completion of the dissertation. My major field of graduate study was Industrial Organization and Regulation.
3. I have worked in the field of telecommunications regulation for approximately sixteen years. Among other activities, I have mediated disputes between telecommunications carriers, chaired technical conferences, industry collaborative meetings and industry workshops, testified in regulatory proceedings, delivered speeches and presentations before industry and regulatory groups, and have co-authored two articles on telecommunications regulatory issues.
4. I began work at the New York Public Service Commission in 1987, and held the positions of Telecommunications Tariffs and Rates Analyst, Telecommunications Policy Analyst, and Special Assistant to the Deputy Chair of the Commission. In these capacities, I performed economic and policy analyses of various telecommunications industry and regulatory issues, and formulated

recommendations for Commission members and other decision-makers. In 1993 I became Special Advisor to Commissioner Barrett of the Federal Communications Commission ("FCC") on Common Carrier telecommunications issues, and served in that capacity for one year before returning to the Staff of the New York Public Service Commission. While at the FCC, I provided analyses and policy recommendations on a wide range of telecommunications issues, and functioned as liaison with the offices of other Commissioners, the Chairman and the FCC's Common Carrier Bureau. I prepared testimony, speeches and presentations for delivery before Congress and various regulatory and industry groups, and drafted for issuance informal and formal documents, including Separate Statements and Dissents from Commission Reports and Orders.

III. PURPOSE OF AFFADAVIT

5. This affidavit serves three primary purposes. First, it provides a brief overview and summary of Staff's overall assessment of SBC's Phase 2 case, and presents Staff's major conclusions concerning whether SBC has met all requirements for Commission endorsement of SBC's Section 271 application. It also summarizes Staff's major recommendations concerning remedial actions the Commission should require SBC to take in this docket. Second, it provides a brief summary of each affidavit filed by various Staff members in Phase 2 of this docket. Finally, it provides my own analysis and recommendations concerning Checklist item 4 – Unbundled Local Loops.

IV. SUMMARIES OF STAFF'S PHASE 2 AFFIDAVITS

6. A brief summary of each affidavit submitted by Staff on February 21, 2003 is presented in Schedule 28.01 attached to this affidavit.

V. STAFF'S PHASE 2 CONCLUSIONS AND RECOMMENDATIONS

7. The Commission determined, at the conclusion of Phase 1 of this docket, that SBC Illinois has satisfied items (iii), (vii), (viii), (ix), (xi), (xii) and (xiv) of the 14-Point Competitive Checklist (subject to demonstration of compliance with specific performance items in Phase 2 of this docket).¹ Staff's analysis thus far of SBC Illinois' Phase 2 affidavits and supporting exhibits indicates that the Company now has satisfied a number of additional requirements for Section 271 approval. However, Staff's analysis in Phase 2 also reveals that a number of deficiencies remain. In order to achieve a positive recommendation for Section 271 approval, SBC must remedy remaining deficiencies in a number of areas.

Generally, it must:

- (1) take further remedial actions to achieve compliance with the Commission's Phase I Interim Order;
- (2) remedy certain remaining deficiencies in its OSS;
- (3) remedy the accuracy and reliability problems with the performance data it reports;
- (4) improve its performance on a number of critical performance metrics (improving the service it provides CLECs);
- (5) adopt and implement an effective performance remedy plan.

The specific deficiencies that remain in each of these areas are set forth in detail in Schedules 28.02 through 28.06 attached to this affidavit, but are briefly summarized here:

SBC's Compliance With the Requirements of the Phase 1 Interim Order

Several areas of failure to comply with the Commission's Interim Order remain. Notable among these are compliance with line loss notification requirements; compliance with the Commission's Orders in Dockets 01-0614 and 01-0393; performance of an adequate "zone of reasonableness"

¹ The finding that SBC Illinois has satisfied Checklist items (iii), (vii), (viii), (ix), (xi), (xii) and (xiv) specifically is subject to a showing otherwise in Phase 2 of this docket. Phase 1 Interim Order on Investigation ("Interim Order"), February 6, 2003, at paragraph 1804.

analysis with respect to some rates; and sufficient demonstration of non-discriminatory process for provisioning of enhanced extended loops.

SBC Operational Support Systems (OSS)

SBC Illinois' OSS, as reported by BearingPoint during its independent third party review, is not sufficient with respect to the ordering (timeliness of service order completion (SOC) responses), provisioning (accuracy of updates to customer service records (CSRs)), or maintenance and repair (accuracy of close out coding on end-to-end trouble faults) functions.

Accuracy and Reliability of SBC's Performance Measurement Data

The results of the reviews by BearingPoint and Ernst & Young of SBC Illinois' performance measurement data, taken together, significantly undermine the accuracy and reliability of those data. Since those data serve as inputs to any performance remedy plan used to prevent future "backsliding", the efficacy of any such plan is seriously compromised unless these deficiencies are resolved. Moreover, until those data can be demonstrated to be accurate and reliable by BearingPoint (or another independent third party using a similar analysis), it cannot be relied upon to establish current or future compliance with applicable competitive checklist requirements.

SBC Illinois' 122 Performance Measure Results

SBC Illinois has not yet adequately demonstrated that it provides wholesale service to CLECs in a non-discriminatory manner. SBC Illinois passed 70.1% of the performance measures at the PM level, and 87.2% at the sub-measure level. Staff identified 21 significant performance measures for which SBC Illinois is not providing adequate wholesale service. Based primarily on these 21 performance measures, SBC Illinois has not yet met requirements for Checklist Items 2, 4, 7, and 14.

SBC's Anti-Backsliding Plan (Performance Remedy Plan)

SBC Illinois' proposed remedy plan will not adequately prevent backsliding in a post-Section 271 environment, and SBC should be required to adopt the Commission-ordered

remedy plan from ICC Docket No. 01-0120 for purposes of this Section 271 application.

8. Based upon the deficiencies identified in paragraph 7 above, Staff is unable to recommend that the Commission endorse SBC Illinois' Section 271 application at this time.
9. If the Commission finds, notwithstanding Staff's recommendation, that SBC has met all Section 271 requirements, Staff would urge that the Commission grant only a conditional endorsement of SBC's Section 271 application subject to the following requirements:
 1. SBC Illinois must commit (in its rebuttal testimony) to complete all remedial actions necessary to achieve compliance with the Commission's Phase I Interim Order.
 2. SBC Illinois must commit (in its rebuttal testimony) to abide by a Commission formulated plan and timetable to remedy each OSS and performance measurement deficiency that remains unresolved at the conclusion of Phase 2.
 3. SBC Illinois must commit (in its rebuttal testimony) to remedy all OSS and performance measurement deficiencies remaining at the conclusion of Phase 2 no later than November 30, 2003. (These remedies would be verified by an independent third party).
 4. SBC Illinois must commit to report to the Commission bi-monthly on progress toward meeting all remaining requirements.²
 5. SBC Illinois must commit to participate in a collaborative composed of Staff, the Company and all interested parties, to facilitate and monitor SBCI's progress toward eliminating the significant deficiencies regarding 3-Month PM data results (as outlined by Staff in initial Phase II affidavits).

Finally, any grant of a conditional endorsement of SBC's application also should specify that if SBC Illinois fails to fully satisfy these commitments, the Commission would be entitled to:

² This reporting obligation would commence upon issuance of the Commission's Phase 2 Order and continue through the November 30, 2003 deadline.

1) Commence an action that could result in imposition of civil penalties, as set forth in Sec. 13-305 of the Illinois Public Utilities Act for failure to comply with the Commission's Final Order in this proceeding; and

2) Inform the FCC of such deficiencies or non-performance for possible action pursuant to Sect. 271(d)(6) of the 1996 Telecommunications Act.³

10. In the event SBC Illinois were unwilling or unable to make the above commitments, Staff would recommend that the Commission decline to endorse SBC Illinois' Section 271 application.

VI. COMPETITIVE CHECKLIST ITEM 4 – UNBUNDLED LOCAL LOOPS

11. The Commission determined in Phase 1 of this docket that SBC should take certain remedial actions In Phase 2 concerning UNE loops:

Our concerns with respect to the satisfaction of Checklist Item 4 are centered on certain line splitting matters discussed above and on the compliance tariff for Dockets 00-0393 and 01-0164. We expect the company to address these concerns to our satisfaction in Phase II together with a showing on resolution of the "hot cuts" issue.⁴

³ Section 271(d)(6) is entitled "Enforcement of Conditions" and provides as follows:

(A) COMMISSION AUTHORITY.--If at any time after the approval of an application under paragraph (3), the Commission [FCC] determines that a Bell operating company has ceased to meet any of the conditions required for such approval, the Commission may, after notice and opportunity for a hearing--

(i) issue an order to such company to correct the deficiency;
(ii) impose a penalty on such company pursuant to title V; or
(iii) suspend or revoke such approval.

(B) RECEIPT AND REVIEW OF COMPLAINTS.--The Commission shall establish procedures for the review of complaints concerning failures by Bell operating companies to meet conditions required for approval under paragraph (3). Unless the parties otherwise agree, the Commission shall act on such complaint within 90 days.

⁴ Phase 1 Interim Order On Investigation in Docket 01-0662 at paragraph 968.

Paragraphs 958 and 959 of the Phase 1 Interim Order require SBC to demonstrate compliance with the Commission's Orders in Docket 00-0393:

958. That said, AT&T has set out a matter of grave concern to this Commission. Ameritech Illinois needs to show that its tariff is compliant with our Order in Docket 00 - 0393. Until this showing is made, the company will not meet the standards for provision of loops.

959. As it stands, the Company and Staff will report to this Commission, in Phase 2, on the propriety of Ameritech's compliance tariff for Docket 00 - 0393 and we urge the parties to result their differences in the interim.

SBC's Docket 00-0393 "Compliance" Tariff Is Not Compliant

12. The Commission has determined that, in order for it to endorse SBC's application for Section 271 authority concerning unbundled local loops, SBC must demonstrate that its Broadband UNE ("Project Pronto") tariff complies fully with the Commission's Orders in Docket 00 – 0393.

SBC IL witness Pat Fleck's January 22, 2003 affidavit purports to show that SBC IL's Broadband UNE tariff complies with the Commission's Orders in Docket No. 00-0393. Ms. Fleck's affidavit fails to do so for the simple reason that SBC Illinois' tariff does not comply fully with the Commission's Orders in Docket 00-0393. This section of my affidavit demonstrates that lack of compliance.

13. Paragraph 7 of Ms. Fleck's affidavit addresses collocation requirements in the combined voice and data configuration of SBC's Broadband (Project Pronto) UNE offering. Ms. Fleck cites the Commission's Order on Second Rehearing in Docket 00-0393 (at page 4) as stating that "... access to the end-to-end Project Pronto UNE is via collocation in the central office". Ms. Fleck advances this as evidence that the Commission ruled that

access to both the data and voice portions of a Project Pronto loop in a voice and data configuration are via collocation only, with no other option available for CLECs. This contention is incorrect, and is a misreading of the Commission's Order on Rehearing.

14. As an initial matter, Ms. Fleck's quote to the Commission's Second Order on Rehearing is a misquote that omits an important detail. The correct site is "... access to the end-to-end Project Pronto UNE is via collocation in a central office (section 4.3) [emphasis added]...". As I will show, Section 4.3 refers specifically and solely to collocation for access to the data portion of a combined voice and data Project Pronto loop configuration, and not to the voice portion. I also will show that the Commission's Orders in Docket 00-0393 make abundantly clear that CLEC collocation is not required for access to the voice portion of such loops.
15. To demonstrate this, it is useful to examine closely the pertinent portions of the Commission's September 26, 2001 Order on Rehearing. In this Order, the Commission adopted Staff's proposal that SBC provide the Project Pronto broadband product "...in the form of an end-to-end unbundled product -- a sort of N.G.D.L.C. UNE P." In adopting Staff's proposal, the Commission ruled that:

we accept Staff's alternative proposal and order Ameritech to file, in Illinois, an interim tariff detailing a end-to-end H.F.P.L. UNE based upon the contract terms ordered by the arbitrators in Texas. We adopt, with modifications, the proposed tariff attached to Staff's Reply to Briefs on Exception.⁵

⁵ The modifications referred to (nine in total) were made by the Commission as a result of arguments raised by the parties in Briefs on Exception, Reply Briefs on Exceptions, Surreply, Responses and Reply. None of the modifications need concern us here as they do not directly impact the issue of collocation requirements for the Broadband UNE offering. It is useful to note here that one of the modifications made by the Commission was to delete Section 5.5.1 and

Ordering Paragraph No. 4 of this Order on Rehearing directed
SBC to file:

within 30 days of the entry of this order, an H.F.P.L. UNE
tariff that mirrors Appendix A hereto, as modified.

16. Appendix A of the Commission's Order on Rehearing is attached to this affidavit as Schedule 28.07. Significantly, there is no collocation requirement in this document. Rather, the Commission directed by this document that collocation would be an option that CLECs may or may not elect. For convenience, the provisions of Appendix A that bear directly on this issue are reproduced here. (The language clarifying that collocation is not required is highlighted in italics and underlined).

4. NETWORK CONFIGURATIONS

4.3. One of the CLEC's means of access to the data portion of the Project Pronto architecture (as provisioned through the OCD), whether in the Data configuration or Combined Voice and Data configuration, is via collocation in the end office. If the CLEC decides to access Project Pronto via collocation, CLEC is required to be collocated at each end office in which CLEC desires to access the Project Pronto architecture. CLEC is responsible to ensure that any necessary collocation arrangement, whether virtual and/or physical, and any subsequent collocation augments are completed and in place in each serving wire center in which CLEC desires to place an order for any of the network components described within this Agreement.

4.4. CLEC's means of access to the voice portion of the Project Pronto in the Combined Voice and Data configuration is provided in two different manners. In the instance in which CLEC desires to receive the voice physically in their collocation arrangement from the MDF AMERITECH-IL will extend the voice signal to CLEC's collocation arrangement in a like manner to a standard unbundled loop. Alternatively, subject to the same terms governing availability of the UNE-P with respect to UNE loops in CLEC's interconnection agreement or tariff as applicable, CLEC may order voice service through the Combined Voice and Data configuration in a UNE-Platform ("UNE-P") where no cross-connect to collocation will be necessary.

6. COMBINED VOICE AND DATA CONFIGURATION

6.4. CLEC will be provided the capability to access the voice traffic in two different manners. The first is via collocation, in which case AMERITECH-IL will extend

Section 8.7 of Staff's proposed tariff (which were deleted to address SBC concerns over interoffice transport).

a physical copper connection from the MDF to a CLEC's collocation arrangement in the serving wire center. The second is via a UNE-P arrangement, in which case no collocation will be necessary. Under the UNE-P option, AMERITECH-IL is required to take the voice traffic from the remote terminal to the MDF and crossconnect the traffic to the appropriate switch port.

6.6. COMBINED VOICE & DATA NETWORK COMPONENTS

6.6.3. **Combined Voice and Data UNE-P Loop** This path will be the same as the Combined Voice and Data Loop however it will be extended directly to an unbundled switch port. In this instance the CLEC will not be required to collocate to access the voice traffic.

6.6.4. The specific terms for the provision of UNE-P voice in this arrangement will be the same as those terms provided for in the provision of UNE-P in the Agreement. Rates for the new Combined Voice and Data UNE-P Loop will be set in the permanent pricing phase of Docket No. 00-0393.

17. On October 17th, 2001, SBC filed an Application for Clarification and Rehearing of the Commission's September 26, 2001 Order on Rehearing. The Commission granted SBC's request for rehearing on seven issues, and, on the Commission's own motion, directed the parties to address two additional issues. Attached to SBC's Application for Clarification and Rehearing was a "redline version " of the tariff displaying all revisions that SBC requested be made to the tariff. This document is attached to this affidavit as Schedule 28.08. For convenience, the provisions where SBC requested revisions that bear directly on the collocation issue are reproduced here:

4. NETWORK CONFIGURATIONS

4.3 The CLEC's means of access to the data portion of the Project Pronto architecture (as provisioned through the OCD), whether in the Data configuration or Combined Voice and Data configuration is via collocation in the end office. CLEC is required to be collocated at each end office in which CLEC desires to access the Project Pronto architecture. CLEC is responsible to ensure that any necessary collocation arrangement, whether virtual and/or physical, and any subsequent collocation augments are completed and in place in each serving wire center in which CLEC desires to place an order for any of the network components described within this Agreement.

6.6.4. The specific terms for the provision of UNE-P voice in this arrangement will be the same as those terms provided for in the provision of UNE-P in the Agreement.
Rates for the new Combined Voice and Data UNE-P Loop will be set following the review of Ameritech's UNE cost studies.

18. These are only two provisions that bear directly on the collocation issue for which SBC requested revisions to Appendix A. Significantly, the revisions requested deal only with access to the data portion of the service, and not the means of access to the voice portion. Paragraph 4.3 applies solely to collocation for access to the data functionality. The Commission granted SBC's request for revision of this provision to require collocation for access to the data portion of a Project Pronto loop. SBC made no request for revisions to Paragraphs 4.4, 6.4, 6.6.3 of Appendix A, all of which, among others, clearly require SBC to provide non-collocated access to the voice portion of a Project Pronto loop in a combined voice and data configuration.
19. Ms. Fleck erroneously asserts that parties to this proceeding reached consensus that access to both the data and voice portions of loop in a combined voice and data configuration would be via collocation only. Ms. Fleck's assertion is incorrect, as is clearly revealed by a careful reading of the Commission's March 28, 2002 Order on Second Rehearing. That order granted rehearing regarding the collocation issue with respect to access to the data portion of the Broadband UNE. Specifically, the order granted rehearing on the issue of whether:

In section 4.3, language regarding the means of access to the broadband 'UNE' should be clarified by adopting Attachment 1 to Ameritech's Application for Clarification and Rehearing of the Order on Rehearing [AI app. at 6].

The order then notes that:

...the parties were able to reach consensus on the resolution of a number of issues upon which rehearing was granted including:
....clarifying that access to the end-to-end Project Pronto UNE is via collocation in a central office (section 4.3)...

20. The consensus reached among the parties on this issue concerned only SBC's requested revisions to Section 4.3. The parties agreed that collocation should be the sole means of access to the data portion of the broadband UNE, and the Commission endorsed that agreement by adopting SBC's requested revisions to Section 4.3. At no time did Staff agree with SBC or any other party that CLECs should be required to collocate to access the voice portion of the broadband UNE. Any representation otherwise by Ms. Fleck simply is incorrect.

In sum, the Commission Orders in Docket 00-0393 are quite clear in requiring collocation to the data portion of the Project Pronto combined voice and data offering, and are just as clear that access to the voice component in that configuration does not require CLEC collocation.

21. Ms. Fleck also asserts in Paragraph 7 (and elsewhere) in her affidavit that:
...the issue of whether SBC Illinois should be required to provide such a "non-collocated" broadband UNE product was neither raised nor litigated in the evidentiary record.

The Commission already has rejected this assertion, which has been raised by SBC on several occasions in this regard. The Commission's September 26, 2001 Order on Rehearing makes very clear that the Commission fully considered all issues and objections raised by SBC, and that all parties had been afforded full due process:

The authority to order the filing of an interim tariff is granted the Commission in Section 13-501(b) of the Telecommunications Act. The Commission has reviewed Staff's proposal as modified and finds the terms and conditions of service to be both just and reasonable. This solution moots all of Ameritech's arguments

relating to the following issues: line card ownership; line card incompatibility; access to sub-loops; PVP exhaust and stranded capacity. In addition, the granting of Ameritech's Motion to File Instantly and considering all of the arguments raised therein, moots all due process complaints, since Ameritech has been provided a full and fair opportunity to voice its objections to the Staff proposal. [emphasis added]

Accordingly, the Commission should give no weight to this argument erroneously raised again in Ms. Fleck's affidavit.

22. Ms. Fleck's representations of the nature of the changes required to the Broadband UNE tariff Staff discussed with SBC Illinois are inaccurate. In reality, Staff made clear that a number of significant and substantive changes would be required to SBC's Broadband UNE tariff (filed on May 10th 2002) to bring it into compliance with the Commission's Orders in Docket 00 - 0393. Schedule 28.09 attached to this affidavit is a copy of SBC's Broadband UNE tariff, containing all modifications required to bring this tariff into full compliance with the Commission's Orders in Docket No. 00-0393.
23. On February 20, 2003, the Commission issued an order suspending SBC's January 17, 2003 Broadband UNE tariff filing, and commenced an investigation into the compliance of this tariff filing with Commission Orders in Docket No. 00-0393. The Commission determined that it could not conclude that the Broadband UNE tariff complies with the Commission's orders in Docket No. 00- 0393.

Line Splitting

24. In Phase 1 of this proceeding, Staff pointed out the necessity of a "single order process" to support line splitting by CLECs providing voice service

via UNE-P. The Phase 1 Interim Order on Investigation addressed this issue, and concluded as follows:

946. AI now claims to be developing a single order process. A simple claim, however, is not sufficient for our purposes. Ameritech has the burden of presenting evidence to show that it offers a workable single order process. We wait such a showing in Phase II of this proceeding in order to verify the reality of the Company claims.

SBC witness Chapman addresses this issue in her January 22, 2003 affidavit. There she asserts that SBC's single order process is "fully operational" and that it facilitates CLEC line splitting arrangements. However, Ms. Chapman presents no evidence to support her claim. As the Commission has already declared, "[a] simple claim is not sufficient for our purposes." Ms. Chapman's affidavit does not provide the "evidence to show that [SBC] offers a workable single order process." Further evidence must be provided to satisfy the Commission's directive. In response to questioning at the February 10, 2003 workshop in this proceeding, Ms. Chapman indicated that only a small number of orders (perhaps approximately 25) have been filled utilizing the single LSR process, and that these were "managed" by SBC. Therefore, as of yet, SBC has failed to make the required showing that SBC's single LSR process is viable under conditions of normal order flow through. Ms. Chapman should provide a showing in her responsive affidavit.

25. Ms. Chapman further asserts at paragraph 9 of her January 22, 2003 affidavit that the SBC single LSR process (in conjunction with CLEC cable pre-wiring from a collocation cage to SBC's main distribution frame) enables line splitting in UNE-P provisioning arrangements with "no appreciable service disruption". She asserts that AT&T has endorsed this process in California, and that this process is adequate for Commission

purposes in this docket. I have no direct knowledge concerning the validity of Ms. Chapman's assertion that AT&T finds the above-described processes acceptable in California. I reserve comment on this until I have the opportunity to examine AT&T's Phase 2 affidavit addressing this issue.

26. Perhaps more significantly, Ms. Chapman presents no cogent argument or evidence that the process described (relying upon CLEC cable prewiring) satisfies SBC's obligation to make available the line splitting functionality in a nondiscriminatory manner. In paragraph 10 of her affidavit, Ms. Chapman argues that the above-described SBC practice is nondiscriminatory because "...SBC Illinois makes no distinction in the way it processes orders from different CLECs for the UNEs necessary for line splitting." This, of course, fundamentally misses the point concerning SBC's obligations to provision line splitting in a non-discriminatory manner. The essential ingredient of non-discrimination generally is that SBC "treat" CLECs in a manner identical to (or sufficiently comparable to) its own operations or its own affiliate. In this application, SBC must show that parity (or sufficient comparability) exists between the provisioning of line splitting functionality to CLECs and the provisioning of data functionality to SBC's data affiliate (where SBC Illinois provides the voice service component). Ms. Chapman has provided no cogent argumentation or evidence to demonstrate that this requirement (as properly defined) has been satisfied. Unless and until SBC does so, it has not demonstrated that it has met all requirements concerning the provisioning of unbundled local loops. Ms. Chapman or another SBC affiant should address this in the March 3, 2003 SBC responsive affidavits.

Compliance with the Commission's Order in Docket No. 01-0614

27. To reiterate, the Commission determined in Phase 1 of this docket that SBC should take certain remedial actions In Phase 2 concerning UNE loops:

Our concerns with respect to the satisfaction of Checklist Item 4 are centered on certain line splitting matters discussed above and on the compliance tariff for Dockets 00-0393 and 01-0164. We expect the company to address these concerns to our satisfaction in Phase II together with a showing on resolution of the “hot cuts” issue.⁶

SBC has not yet addressed in Phase 2, as directed by the Commission, the adequacy of its compliance tariff with respect to the Commission’s Order in Docket No. 01-0614. It is now incumbent upon SBC to do so.

28. Commission requirements concerning line-splitting issues overlap significantly in the Commission’s Docket 00-0393 and Docket 01-0614 Orders. To a large degree this is because Section 13-801 of the PUA (implemented by the Commission’s Order in Docket No. 01-0614) does not distinguish between copper and fiber technologies in local loop facilities, and applies equally to both.
29. The Commission’s Order in Docket No. 01-0614 sets forth two major requirements concerning line splitting. First, it concludes that the only permissible restrictions on the availability and use of cross-connects for line splitting by CLECs involve safety and network reliability:

The Commission also accepts the Joint CLEC proposal relating to the requirement that Ameritech provide cross connects between the facilities of collocated and non-collocated carriers and rejects Ameritech proposed language that would provide cross connects only between the facilities of collocated carriers as without the requirements of section 13-801(c). Section 13-801(c) plainly requires Ameritech to allow, and provide for, cross connects between a noncollocated telecommunications carrier's network elements platform, or a noncollocated telecommunications carrier's transport facilities, and the facilities of any collocated carrier, consistent with safety and network reliability standards.

⁶ Phase 1 Interim Order On Investigation in Docket 01-0662, at paragraph 968.

At Paragraph 81 of the same Order, the Commission determined that it:

...agrees with the Joint CLECs that Section 13 – 801(c) contemplates the exact type of cross-connects that are necessary to provision line splitting without disrupting the end-users service and to retain the feature [i.e., joint voice and data service] intact. There would seem to be little other utility to CLECs from ordering Ameritech to provide this service except to support line splitting, where one CLEC becomes the voice provider and one CLEC becomes the data provider to an end user that currently has voice and data service over a copper loop.

Finally, in paragraph 83 of this Order, the Commission concludes that:

...the network platform, as defined by the Legislature in the new enactments, contemplates Ameritech's provision of splitters and the line splitting arrangement as contemplated by the Joint CLECs. Accordingly the Joint CLECs proposed tariff language on this issue is accepted.

30. The Joint CLEC proposed tariff language addressing cross-connects, adopted by the Commission in the Docket 01-0614 Order, is:

Ameritech Illinois will allow, and at the request of the carrier will provide, cross connects between and UNE-P combination and the facilities of any collocated carrier.

SBC must now demonstrate, in its March 3, 2003 responsive affidavits, that its current tariff contains specific provision(s) that comply with this Commission requirement.

31. The second major Commission determination concerning line splitting was summed up in paragraph 80 of the Order in Docket 01-0614 as follows:

...a requesting telecommunications carrier that seeks to provide the customer the same feature as the customer was receiving

must be entitled to the use of an existing splitter if the end-users features are to remain intact. This is especially so given the Legislature's requirement that the requesting carrier be provided the platform "without any disruption to the end user's services." The only way that this can be accomplished is if the splitter is part and parcel to the platform. Any other scheme would, of necessity, require some disruption of service.

To comply with this Commission directive, SBC's tariff must provide for the use of existing splitters by CLECs seeking to engage in line splitting. Moreover, literal compliance requires that SBC's tariff provide for a seamless transition to line splitting, with no service disruption whatever. It is my understanding, however, that the involved parties acknowledge that some minimal service disruption is unavoidable for purely technical reasons. Given this, SBC's tariff must, at an absolute minimum:

- 1) provide for use by CLECs (for line splitting purposes) of existing SBC splitters; and
- 2) provide for the most efficient processes and mechanisms feasible (consistent with safety and reliability considerations) in order to minimize any technically unavoidable service disruptions in CLEC line splitting arrangements.

SBC should demonstrate that its tariff contains provisions that adequately address these two issues in its March 3, 2003 responsive affidavits, or as soon thereafter as is practicable.